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SEP 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Panasyuk et al.	:	
Application Number: 10/683881	:	ON PETITION
Filing Date: 10/10/2003	:	
Attorney Docket Number:	:	
2006579-0432 (CTX-084)	:	

This is a decision on the petition requesting withdrawal of the holding of abandonment, filed on July 9, 2008.

The petition is **GRANTED**.

The application was held abandoned for failure to timely a reply to the non-final Office action mailed on December 11, 2007, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on June 18, 2008. The subject petition was filed on July 9, 2008.

Petitioners assert that a timely response, including an amendment and a one (1) month extension of time, was filed by facsimile on April 11, 2008.

In support, petitioners have provided a copy of the amendment and extension of time asserted to have been timely filed. Additionally, a copy of the sending unit's transmission report and the USPTO Auto-Reply Facsimile Transmission report, showing that 14 pages, including the first page of the reply, which contains a certificate of transmission signed by Adele E. Kalogeris, have been filed.

37 CFR 1.8(b) states:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the

application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.


As petitioners have provided convincing evidence that a response to the non-final Office action mailed on December 11, 2007, was transmitted to the USPTO on April 11, 2008, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is withdrawn, and the notice of abandonment is vacated.

The one (1) month extension of time fee will be charged to counsel's deposit account, as authorized in the petition for extension of time.

The application is referred to Technology Center Art Unit 2154 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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Office of Petitions